

## **(IMPORTANT NOTICE)**

### **AMENDMENTS TO THE FEDERAL RULES OF PRACTICE AND PROCEDURE AND ADMINISTRATIVE OFFICE NATIONAL FORMS**

Congress has taken no action on the amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, approved by the Supreme Court on March 26, 2009, which include revisions of time periods in 91 rules. **The following amendments to the rules on the computation of time will take effect on December 1, 2009:**

- Appellate Rules 4, 5, 6, 10, 12, 15, 19, 25, 26, 27, 28.1, 30, 31, 39, and 41;
- Bankruptcy Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033;
- Civil Rules 6, 12, 14, 15, 23, 27, 32, 38, 50, 52, 53, 54, 55, 56, 59, 62, 65, 68, 71.1, 72, 81; Supplemental Rules B, C, and G; and Illustrative Civil Forms 3, 4, and 60; and
- Criminal Rules 5.1, 7, 12.1, 12.3, 29, 33, 34, 35, 41, 45, 47, 58, and 59; Rule 8 of the Rules Governing Section 2254 Cases in the United States District Courts; and Rule 8 of the Rules Governing Section 2255 Proceedings for the United States District Courts.

**The following non-time-computation amendments and new rules under the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure will take effect on December 1, 2009:**

- Appellate Rules 4, 22, 26, and new Rule 12.1;
- Bankruptcy Rules 2016, 4008, 7052, 9006, 9015, 9021, 9023, and new Rule 7058;
- Civil Rules 13, 15, 48, and 81, and new Rule 62.1; and
- Criminal Rules 7, 32, 32.2, and 41; Rule 11 and new Rule 12 of the Rules Governing Section 2254 Cases in the United States District Courts; and Rule 11 of the Rules Governing Section 2255 Proceedings for the United States District Courts.

In accordance with 28 U.S.C. § 2074(a) and the March 26, 2009, Supreme Court orders, they will govern all proceedings commenced on or after December 1, 2009, and “insofar as just and practicable” all proceedings then pending. The text of the amended rules and extensive supporting documentation can also be found on the Judiciary’s Federal Rulemaking web site at <http://www.uscourts.gov/rules>.

Most of the rules amendments involve time-computation changes, which are intended to make the federal rules on calculating time periods simpler, clearer, and consistent. The principal simplifying innovation is to count all days, including intermediate weekends and holidays, in computing time periods under the procedural rules. The current rules exclude intermediate weekends and holidays for some short time periods, resulting in inconsistency and unnecessary complication. In addition, all the deadlines in the rules were reviewed and most short periods were extended to offset the shift in the time-computation rules and to ensure that each period is reasonable. As a reminder, appropriate revisions to deadlines in local rules of court should also take effect on December 1, consistent with the time-computation changes to the federal rules.

Further information on the time-computation rules amendments and parallel changes to certain statutory time periods affecting court proceedings can be found in the excerpt reports of the Rules Committees, which are posted on the Rules web site at:

<http://www.uscourts.gov/rules/supct0309.html> and at  
<http://www.uscourts.gov/rules/HR1626.pdf>.

Separate PowerPoint presentations, which you may find helpful, explaining the amended time computation rules and their operation in appellate, bankruptcy, and district court proceedings are posted at <http://www.uscourts.gov/rules/presentations.html>.

To conform with the time-computation rules changes, Administrative Office staff, advised by the Forms Working Group of judges and clerks, have revised eight civil and criminal forms. The revised forms can be found on the Judiciary's J-Net and [www.uscourts.gov](http://www.uscourts.gov) websites and include:

AO 93	Search and Seizure Warrant
AO 93A	Search and Seizure Warrant on Oral Testimony
AO 100B	Surety Information Sheet
AO 109	Warrant to Seize Property Subject to Forfeiture
AO 133	Bill of Costs
AO 440	Summons in a Civil Action
AO 441	Summons on Third-Party Complaint
AO 466A	Waiver of Rule 5 & 5.1 Hearing (Complaint or Indictment)

Questions have been raised by the National Association of Criminal Defense Lawyers about new habeas Rule 11 of the rules governing 28 U.S.C. § 2254 petitions and new habeas Rule 11 of the rules governing § 2255 motions, which expressly allow petitioners to seek a district court's reconsideration of the denial of a certificate of appealability. The new rules state that a motion to reconsider the denial of a certificate of appealability does not extend the time to file a notice of appeal from the judgment denying relief. The new rules, however, do not change or limit the tolling effect of timely motions for reconsideration of the judgment denying relief, as set forth in Federal Rule of Appellate Procedure 4 (a)(4). That is, a timely-filed motion for reconsideration of the judgment, filed pursuant to Federal Rule of Civil Procedure 59, will continue to extend the time to file a notice of appeal until entry of an order disposing of the Rule 59 motion by the district court.

